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INTERSTATE COMMERCE — CONTROL BY STATES — TAXATION: GOODS IN TRANSIT. — The defendant shipped grain from western to eastern points under through bills of lading which allowed warehousing in Chicago for inspection and testing. Illinois taxed the grain in warehouse as his personal property. *Held*, that the tax is constitutional. *Bacon v. People of Illinois*, 227 U. S. 504, 33 Sup. Ct. 299.

This decision seems to show that in taxation, at least, the question of interstate commerce is to be approached from the viewpoint of a reserved power in the states, and that a property tax is constitutional if not levied on the commerce as such and if it does not discriminate against interstate commerce. See 26 HARV. L. REV. 358.

JOINT WRONGDOERS — EFFECT OF RELEASE OF ONE NOT LIABLE FOR THE TORT. — In an action for the death of the plaintiff's intestate due to the defective condition of a sidewalk, for which the defendant was responsible, it appeared that the plaintiff had for consideration released the city from all liability for the injury. The city was not legally liable. *Held*, that this release is a bar to the present action. *Casey v. Auburn Telephone Co.*, 139 N. Y. Supp. 79 (Sup. Ct., App. Div.).

A release under seal at common law, given to one joint wrongdoer, discharges the liability of all, on the ground that each is liable in full and one release is equivalent to actual satisfaction. *Bronson v. Fitzhugh*, 1 Hill (N. Y.) 185; *Stone v. Dickinson*, 89 Mass. 26. Where there is no formal release it becomes a question of fact whether the amount is paid by one wrongdoer as satisfaction in full. *Chicago v. Babcock*, 143 Ill. 358, 32 N. E. 271. If not a complete satisfaction the amount paid is only a *pro tanto* bar to a suit against a joint wrongdoer. *Lovejoy v. Munsy*, 3 Wall. (U. S.) 1; *Ellis v. Esson*, 50 Wis. 138. Where settlement in full is made with one not actually liable, those liable in fact are discharged. *Brewer v. Casey*, 196 Mass. 384, 82 N. E. 45; *Hartigan v. Dickson*, 81 Minn. 284, 83 N. W. 1091. *Contra*, *Wardell v. McConnell*, 25 Neb. 558, 41 N. W. 548. And therefore it is urged that a mere release under seal will have the same effect. *Hubbard v. St. Louis & M. R. Co.*, 173 Mo. 249, 72 S. W. 1073. *Contra*, *Thomas v. Central R. of N. J.*, 194 Pa. St. 511, 45 Atl. 344. It is submitted, however, that a new release of one not liable cannot extinguish a liability which attaches only to another. Of course an injured person should receive but one satisfaction, and the question whether the compromise in the principal case is a complete bar should depend on whether it was actually intended as full satisfaction for the injury.

LIBEL AND SLANDER — ACTS AND WORDS ACTIONABLE — RECOVERY FOR INJURY TO FEELINGS. — The plaintiff sued the defendants who, in accordance with a prior agreement among themselves, shadowed the plaintiff in such a manner that it was apparent to the public that he was the subject of surveillance. The plaintiff proved that he was thereby caused mental anguish and that his reputation was injured. *Held*, that an actionable tort is proved. *Schultz v. Frankfort Marine, Accident, & Plate Glass Ins. Co.*, 139 N. W. 386 (Wis.).

The court reasons that since when represented by picture shadowing would be actionable, *a fortiori* it must be so when actually committed. But this overlooks the different treatment the law has accorded libel and slander. *Thorley v. Lord Kerry*, 4 Taunt. 355. See ODGERS, LIBEL AND SLANDER, 5 ed., 39. If acts of this character are to be treated as defamation they must be regarded as slander because they are temporary in nature and after the act retain no capacity for republication. See TOWNSEND, LIBEL AND SLANDER, 4 ed., § 1; BOWER, CODE OF ACTIONABLE DEFAMATION, 20. The technical rules of slander would not allow recovery since from the opinion it would seem that no special

damages were alleged and since shadowing can hardly be said necessarily to impute the commission of a crime involving moral turpitude or ignominious punishment. *Cf. Roberts v. Roberts*, 5 B. & S. 384; *Earley v. Winn*, 129 Wis. 201, 109 N. W. 633. As an action on the case for conspiracy the lack of legal damage in the principal case would prove equally fatal to the plaintiff's recovery. *Hutchins v. Hutchins*, 7 Hill (N. Y.) 104; *Doremus v. Hennessy*, 62 Ill. App. 391. But *cf. Randall v. Lonstorf*, 126 Wis. 147, 105 N. W. 663. Thus the court treats as actionable acts which result in loss of reputation accompanied by insulting publicity but by no further damage except injury to feelings. Viewed as an action of defamation, the court is abolishing the technical requisites of slander in cases where the injury arises from acts and not from spoken words. The result reached by the Wisconsin court is closely akin to that reached by the courts which, in adopting a right to privacy, extend the protection of the law to similar intangible interests which the common law previously refused to protect.

PARDONS — EFFECT — PARDON AFTER FIRST CONVICTION NOT PREVENTING SUBSEQUENT CONVICTION AS SECOND OFFENDER. — A statute provided that one who was twice convicted of felony should, upon the second conviction, suffer an increased penalty. The defendant received a pardon after his first conviction. He was subsequently convicted of another felony. *Held*, that he must suffer the increased punishment provided by the statute. *People v. Carlesi*, 139 N. Y. Supp. 309 (Sup. Ct., App. Div.). See NOTES, p. 644.

PUBLIC-SERVICE COMPANIES — RIGHTS AND DUTIES — RIGHT TO DISCONTINUE BRANCH OF RAILROAD. — The defendant railroad abandoned part of its line which it claimed was run at a loss. The result was inconvenience to towns on the railroad which were thereby forced to use a much longer route. The railroad commission ordered the defendant to restore adequate service over the line. *Held*, that the order will be enforced. *Colorado & Southern Ry. Co. v. Railroad Commission*, 54 Colo. 64, 129 Pac. 506.

Constitutional liberty as applied to public service is held to mean that as the entrance into a public business is voluntary, so total withdrawal is possible upon reasonable notice. *Satterlee v. Groat*, 1 Wend. (N. Y.) 273. See *Munn v. Illinois*, 94 U. S. 113, 126; 1 WYMAN, PUBLIC SERVICE COMPANIES, § 290. As long as a public-service company retains its charter or franchise mandatory in terms no part of the service may be abandoned. *Chicago & Alton R. Co. v. Suffern*, 129 Ill. 274, 21 N. E. 824; *Savannah & Ogeechee Canal Co. v. Shuman*, 91 Ga. 400, 17 S. E. 937. When the charter is permissive, according to the weight of authority the company which has accepted a public franchise cannot withdraw even from a separable part of the service. *State v. Spokane St. Ry. Co.*, 19 Wash. 518, 53 Pac. 719; *State v. Hartford & New Haven R. Co.*, 29 Conn. 538. *Contra*, *Eastern Ohio Gas Co. v. Akron*, 81 Oh. St. 33, 90 N. E. 40. If the service of the public in general is directly improved by withdrawal, as where a line is changed so as to straighten the line or include a large town, there may be withdrawal. *People v. Rome, Watertown & Ogdensburg R. Co.*, 103 N. Y. 95, 8 N. E. 369. *Cf. Whalen v. Baltimore & Ohio R. Co.*, 108 Md. 11, 69 Atl. 390. It would seem, however, that the liberty to withdraw from public employment entirely necessarily includes abandonment of any separable part. But the fact that the court in the principal case treats the matter rather as a question of reasonable regulation of an existing service indicates that the attempted abandonment was of an integral part. See 1 WYMAN, PUBLIC SERVICE COMPANIES, § 308.

RESTRICTIONS AND RESTRICTIVE AGREEMENTS AS TO USE OF PROPERTY — RESTRICTIONS IN PRICE ON RE-SALE. — The plaintiff manufactured chocolate